

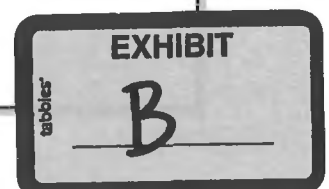


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Evan K. Cohen

November 25, 2020

Thomas A. Connelly, et al. v. The United States
of America, et al.



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

THOMAS A. CONNELLY,)
in his Capacity as Executor of the)
Estate of Michael P. Connelly, Sr.,)
Plaintiff,)
vs.) 4:19-cv-01410-SRC
THE UNITED STATES OF AMERICA,)
DEPARTMENT OF THE TREASURY,)
INTERNAL REVENUE SERVICE,)
Defendant.)

VIRTUAL DEPOSITION OF EVAN K. COHEN

taken on behalf of the Plaintiff

November 25, 2020

INDEX PAGE 2

REPORTER: Bo Kriegshauser
CCR MO. LICENSE NO. 735
CSR IL. LICENSE NO. 084-003924
RPR LICENSE NO. 047257

Page 2	Page 4
1 INDEX OF EXAMINATIONS	1 REMOTE APPEARANCES
2 PAGE	2
3 Direct-Examination by Mr. Devereux.. 5	3 The Plaintiff was represented by Mr. Robert
4 Cross-Examination by Mr. Bresnahan.. 74	4 L. Devereux, Esq., and Ms. Jessica Gottsacker, Esq.,
5 Redirect-Examination by Mr. Devereux 75	5 of the Law Offices of Danna McKittrick, P.C., 7701
6	6 Forsyth Boulevard, Suite 1200, St. Louis, MO 63105.
7 INDEX OF PLAINTIFF'S EXHIBITS	7
8 PAGE	8
9	9 The Defendant was represented by Mr. James
10 Ex. 1 12	10 Bresnahan, II, Esq., of the U.S. Department of
11 Ex. 2 13	11 Justice, Tax Division, 555 4th Street, NW, Room 8840,
12 Ex. 3 16	12 Washington, D.C., 20001.
13 Ex. 4 38	13
14 Ex. 5 25	14
15 Ex. 6 28	15
16 Ex. 12 30	16
17 Ex. 13 50	17
18 Ex. 16 65	18
19	19
20	20
21	21
22 COURT REPORTER WAS EMAILED EXHIBITS	22
23	23
24 SIGNATURE PAGE FOUND ON PAGE 78	24
25	25

Page 3	Page 5
1 UNITED STATES DISTRICT COURT	1 IT IS HEREBY STIPULATED AND AGREED by
2 EASTERN DISTRICT OF MISSOURI	2 and between Counsel for the Plaintiff and Counsel for
3 EASTERN DIVISION	3 the Defendant, that this deposition may be taken in
4 THOMAS A. CONNELLY,)	4 shorthand by Bo Kriegshauser, a Registered
5 in his Capacity as Executor of the)	5 Professional Reporter, Certified Court Reporter, and
6 Estate of Michael P. Connelly, Sr.,)	6 afterwards transcribed into typewriting, and the
7 Plaintiff,)	7 Witness read and signed the deposition.
8 vs.) 4:19-cv-01410-SRC	8
9 THE UNITED STATES OF AMERICA,)	9
10 DEPARTMENT OF THE TREASURY,)	10 COURT REPORTER: Do you swear or affirm to
11 INTERNAL REVENUE SERVICE,)	11 tell the truth, the whole truth, and nothing but the
12 Defendant.)	12 truth?
13	13 THE WITNESS: I do.
14	14 COURT REPORTER: Thank you.
15	15
16 VIRTUAL DEPOSITION OF EVAN K. COHEN, produced,	16 o-O-o
17 sworn, and examined on behalf of the Plaintiff on	17
18 November 25, 2020, between the hours of 9:30 a.m. and	18 EVAN K. COHEN,
19 1:05 p.m. of that day, via REMOTE virtual hook-up,	19 of lawful age, produced, sworn, and examined on behalf
20 before Bo Kriegshauser, a Registered Professional	20 of the Plaintiff, deposes and says:
21 Reporter and Certified Court Reporter within and for	21
22 the State of Missouri.	22 DIRECT-EXAMINATION
23	23 QUESTIONS BY MR. DEVEREUX:
24	24 Q Okay. Good morning everyone. Just a
25	25 housekeeping matter I think we should take on the

EXAMINATION BY MR. DEVEREUX

<p style="text-align: right;">Page 14</p> <p>1 this document as part of what you reviewed in order to 2 render your report?</p> <p>3 A I believe some part of this document is 4 included in Exhibit A, which is on my documents 5 considered list, but I didn't -- I don't recall 6 reading it or paying any particular attention to it.</p> <p>7 Q Okay. Are you familiar with -- I'm on the 8 third page. Are you familiar with Form 843 the Claim 9 for Refund and Request for Abatement?</p> <p>10 A No.</p> <p>11 Q You're not familiar with that?</p> <p>12 A No.</p> <p>13 Q Okay. And so I'm now on Bates No. 271 of 14 Plaintiff's Exhibit No. 2. Do you recall reviewing 15 this page in preparation for your report?</p> <p>16 A No.</p> <p>17 Q Okay. I'm now on Bates No. 273, which is 18 page 3 of the Request for Refund. Did anybody call to 19 your attention the ruling that took place in the 20 estate of George C. Blount versus the Commission at 21 428 F 3rd 1328?</p> <p>22 A It may have been discussed at some point. I 23 didn't pay any particular attention to it in preparing 24 my report.</p> <p>25 Q Did you ever read the case?</p>	<p style="text-align: right;">Page 16</p> <p>1 don't know whether or not the Internal Revenue Service 2 ever issued a nonacquisition statement regarding the 3 ruling in the Blount case?</p> <p>4 A I don't even know what a nonacquisition 5 statement is.</p> <p>6 Q Okay. All right. Give me just a second 7 here.</p> <p>8 [Plaintiff's Exhibit 3.] 9</p> <p>10 Q Okay. Mr. Cohen, could I direct your 11 attention to Plaintiff's Exhibit No. 3? And would you 12 be kind enough to identify it for the record?</p> <p>13 A It looks like it's the Amended and Restated 14 Stock Purchase Agreement dated August 29th, 2001 for 15 Crown C Supply Company.</p> <p>16 Q Okay. And is this a document that you 17 reviewed as part of your assignment to render an 18 expert report in this matter?</p> <p>19 A Yes.</p> <p>20 Q Okay. And who were the parties to this 21 agreement?</p> <p>22 A It looks like the company, and Michael P. 23 Connelly and his brother Thomas A. Connelly.</p> <p>24 Q Okay. And did you understand that in 25 reviewing this that they were the two and only</p>
<p style="text-align: right;">Page 15</p> <p>1 A Did I read the opinion in the case?</p> <p>2 Q Yes, sir.</p> <p>3 A I may have skimmed it, you know, around when 4 we were being retained for this.</p> <p>5 Q Did the holding in the estate of Blount 6 versus the commissioner, did that play any part in the 7 opinion that you've rendered and placed in your expert 8 report?</p> <p>9 A No.</p> <p>10 Q Okay. Did you understand that the Blount 11 case dealt with how the insurance proceeds from a 12 buy/sell agreement are to be treated for estate 13 purposes?</p> <p>14 A No.</p> <p>15 Q Okay. And when you reviewed the Blount 16 case, did you understand that that ruling took place 17 in 2005?</p> <p>18 A I understand that now. I don't know if I 19 understood that at the time.</p> <p>20 Q Okay. And as a result of the ruling in 21 Blount, did you ever investigate whether or not the 22 Internal Revenue Service issued any nonacquisition 23 statements regarding the Blount case?</p> <p>24 A No.</p> <p>25 Q Okay. And so as you sit here today, you</p>	<p style="text-align: right;">Page 17</p> <p>1 shareholders of Crown C Supply?</p> <p>2 A Yeah.</p> <p>3 Q All right. And did you understand the 4 purpose of this agreement?</p> <p>5 A I'm sorry, did you say did you understand 6 that's the purpose of this agreement, or did I 7 understand the purpose of this agreement?</p> <p>8 Q The latter. Did you understand the purpose 9 of this agreement?</p> <p>10 A I think so.</p> <p>11 Q All right. Mr. Cohen, with respect to 12 Plaintiff's Exhibit No. 3, have you formulated any 13 opinions as to the enforceability of this agreement?</p> <p>14 A No.</p> <p>15 Q Okay. And in reviewing this agreement, did 16 you understand that the company, Crown C, was going to 17 satisfy its obligations under the contract by 18 purchasing life insurance on the lives of the two 19 shareholders?</p> <p>20 A I don't know that I understood from this 21 document that the company was going to satisfy that 22 obligation with life insurance, no.</p> <p>23 Q Well, as part of your assignment, did you -- 24 did you learn that, in fact, the company did purchase 25 life insurance in order to satisfy the obligations</p>

5 (Pages 14 to 17)

EXAMINATION BY MR. DEVEREUX

Page 18	Page 20
<p>1 contained in this agreement?</p> <p>2 A No. I know the company purchased life</p> <p>3 insurance.</p> <p>4 Q Okay. And what was your understanding of</p> <p>5 why the life insurance was purchased?</p> <p>6 A I have no understanding of why the life</p> <p>7 insurance was purchased.</p> <p>8 Q Okay. Did you understand that Crown C</p> <p>9 Supply was the purchaser of the life insurance?</p> <p>10 A I did.</p> <p>11 Q Okay. Now, there has been some confusion,</p> <p>12 so I want to go to -- give me just a second here.</p> <p>13 I want to direct your attention to Article</p> <p>14 VII of Plaintiff's Exhibit No. 3 on page 12.</p> <p>15 MR. BRESNAHAN: That would be Article VIII.</p> <p>16 MR. DEVEREUX: Oh, I'm sorry. Thank you.</p> <p>17 Q (By Mr. Devereux) And I want to direct your</p> <p>18 attention to section Article VIII B. Does this</p> <p>19 article provide that in the event of a sale and</p> <p>20 purchase under Article V (death) and the proceeds</p> <p>21 collected from any life insurance owed by the</p> <p>22 surviving Stockholders or the Company on which the</p> <p>23 Decedent Stockholder was the insured was sufficient to</p> <p>24 pay the Purchase Price in full, the full amount of</p> <p>25 said Purchase Price shall be paid on the closing date</p>	<p>1 full, the full amount of said purchase price shall be</p> <p>2 paid on the closing date to the legal representative</p> <p>3 of the decedent stockholder, and any remaining</p> <p>4 proceeds may be retained by the beneficiaries thereof.</p> <p>5 So to me it doesn't say anything that is useful, in my</p> <p>6 opinion, because it doesn't say assume that the life</p> <p>7 insurance proceeds are sufficient. It just says in</p> <p>8 the event they are sufficient, which still leaves us</p> <p>9 with Article V where the fair market value needs to be</p> <p>10 determined for what those shares are worth, and then</p> <p>11 sort of a separate calculation whether or not there</p> <p>12 are insurance proceeds that are sufficient to satisfy</p> <p>13 that Article V obligation.</p> <p>14 Q So my question to you is: If Crown C</p> <p>15 received death benefits as a result of the death of</p> <p>16 Michael Connelly, were they required -- was the</p> <p>17 company required to pay those proceeds to the estate</p> <p>18 of Michael Connelly pursuant to the clause contained</p> <p>19 in this agreement?</p> <p>20 A I don't know if they were required. I'm not</p> <p>21 a lawyer. And, you know, this clause has no bearing</p> <p>22 on my opinion.</p> <p>23 Q Okay. This clause does say -- and I'm at</p> <p>24 the top of page 13. The full amount of said purchase</p> <p>25 price shall be paid on the closing date to the legal</p>
Page 19	Page 21
<p>1 to the legal representative of the decedent</p> <p>2 stockholder, and any remaining proceeds may be</p> <p>3 retained by the beneficiary thereof. Do you see that?</p> <p>4 A I do.</p> <p>5 Q And did you construe that that in the event</p> <p>6 the Crown C received life insurance proceeds, Crown C</p> <p>7 was required to pay the decedent the estate of the</p> <p>8 decedent?</p> <p>9 A I'm sorry, can you repeat that question?</p> <p>10 Q In the event that one of the stockholders</p> <p>11 died and the company received life insurance proceeds</p> <p>12 or death benefits from that death, did you understand</p> <p>13 that the company was required to pay that to the</p> <p>14 estate of the decedent?</p> <p>15 A I don't understand that from this clause,</p> <p>16 no. I mean this clause --</p> <p>17 Q Well -- go ahead. What is your</p> <p>18 understanding of how this clause becomes operative in</p> <p>19 the event of the death of one of the stockholders.</p> <p>20 A If there is this death and Article V is --</p> <p>21 remember, Article V says in the event of death, we</p> <p>22 need to have a fair market valuation of the equity in</p> <p>23 order to figure out how much is paid. So this says if</p> <p>24 there is a death and the proceeds from any life</p> <p>25 insurance are sufficient to pay the purchase price in</p>	<p>1 representative of the decedent stockholder. Correct?</p> <p>2 A Yeah. But you're ignoring the rest of the</p> <p>3 sentence, which is and the proceeds collected from any</p> <p>4 life insurance owned by the surviving stockholders or</p> <p>5 the company on which the decedent stockholder was</p> <p>6 insured are sufficient to pay the purchase price in</p> <p>7 full. Then I would agree that there seems to be a</p> <p>8 requirement.</p> <p>9 Q Okay. And in what situation would there not</p> <p>10 be a requirement of Crown C Supply to pay to the</p> <p>11 decedent stockholder the life insurance proceeds?</p> <p>12 A I just want to be clear that whether or not</p> <p>13 this clause says they have to pay the life insurance</p> <p>14 proceeds -- you know, if the proceeds are not</p> <p>15 sufficient to satisfy the purchase price, then this</p> <p>16 clause is insufficient, you know, to satisfy the</p> <p>17 Article V obligation.</p> <p>18 Q Okay. Well, let me ask it this way: In</p> <p>19 reviewing the file, is it your understanding that</p> <p>20 Michael Connelly died on October 1st, 2013?</p> <p>21 A I don't recall if he died on September 30th</p> <p>22 or October 1st.</p> <p>23 Q Okay. So -- and just so -- you know, I've</p> <p>24 reviewed your report, and I'll get to that, but is it</p> <p>25 my understanding that your client has accepted the</p>

6 (Pages 18 to 21)

EXAMINATION BY MR. DEVEREUX

<p style="text-align: right;">Page 34</p> <p>1 insurance policies as an asset, reporting \$851,870 as 2 of September 30th, 2013." 3 A I see that. 4 Q And can you explain why the cash surrender 5 value of these policies was contained as an asset on 6 Crown C's consolidated financial statements? 7 A I'm sorry, do you want me to tell what you 8 cash surrender value of life insurance is? 9 Q Well, I asked it more in the form of why it 10 is included as an asset on Crown C's consolidated 11 financial statements. 12 A I mean, are you asking me what prepares as a 13 financial statement toward thinking and including it 14 on their balance sheet? 15 MR. BRESNAHAN: Objection. He can't -- 16 there is no foundation here, Bo. He can't testify as 17 to why -- why the company did something. He can -- 18 the objection is to the foundation. 19 MR. DEVEREUX: I'll restate it. 20 Q (By Mr. Devereux) So, Mr. Cohen, do you have 21 an understanding as to what the cash surrender value 22 of a life insurance policy is? 23 A Yes. 24 Q So is it accurate -- and I don't want to put 25 words in your mouth. But if the cash surrender value</p>	<p style="text-align: right;">Page 36</p> <p>1 benefits paid under a life insurance policy are paid, 2 does that cancel the cash value of the policy? 3 A Yeah. 4 Q Now, directing your attention to -- I'm on 5 paragraph No. 16. Did you indicate in this 6 paragraph -- I'm at the bottom four lines -- in the 7 event that all of the deceased stockholder's shares 8 are not purchased by other stockholders, then the 9 company shall and must purchase from the legal 10 representative, and the legal representative must sell 11 to the company all of the deceased stockholder's 12 shares that are not purchased by the remaining 13 stockholders. 14 A Yes. 15 Q Okay. And I think we talked earlier about 16 Article VIII; is that correct? On Plaintiff's Exhibit 17 No. 3. 18 A Yes, I think it was Article VIII. Now I'm 19 getting confused whether it was Article VIII or 20 Article VII. 21 Q Well, I'll put it back up on the screen. I 22 don't want -- I'm not trying to trick you or confuse 23 you, so let's just take it one step at a time. Here 24 it is. Paragraph B; is that correct? 25 A Yeah, I remember talking about that.</p>
<p style="text-align: right;">Page 35</p> <p>1 as listed here in the amount of \$851,870, does that 2 mean the company could contact the insurance company 3 and receive the cash surrender value of the policy at 4 any given point in time? 5 A Yes. So on September 30th, 2013 my 6 understanding of cash surrender value of life 7 insurance is if the company calls the life insurance 8 company and cancels the policies, they would be 9 entitled to a total of \$851,870 in cash. 10 Q Okay. And do you have an understanding as 11 to whether or not there is a difference between the 12 cash surrender value of a life insurance policy as 13 opposed to the death benefits of a life insurance 14 policy? 15 A Yes, I have an understanding of the 16 difference. 17 Q And what is your understanding? 18 A Cash surrender value is what the policy is 19 worth on any given day if the policy was canceled. 20 So, you know, it would be the accumulated cash value. 21 Whereas, the death benefit is how much the life 22 insurance company has contracted to pay the 23 beneficiary or beneficiaries upon the death of, you 24 know, the covered person. 25 Q Okay. And is it accurate once the death</p>	<p style="text-align: right;">Page 37</p> <p>1 Q So, I just read to you Article V about the 2 other stockholders having the right to purchase the 3 shares. But when you look at paragraph 8B, does it 4 not require the company, in the event the company 5 receives life insurance proceeds, to pay to the estate 6 of the decedent the proceeds available in order to pay 7 the value of the decedent's share? 8 A Yeah. I thought we talked about this 9 before, and I don't think that's what Article VIII 10 says. 11 Q Well, what do you think Article VIII says? 12 A I mean, like we talked about, Article VIII 13 says if one of the stockholders were to die, you know, 14 and implicit there is the other stockholders take 15 their right of first refusal and purchase the shares, 16 then the company is obligated, like you said in 17 Article V, to purchase all of those shares. And 18 Article V goes on to say and does so at a fair market 19 value price. And here it says if they died and the 20 life insurance proceeds are sufficient to pay the full 21 purchase price, and purchase price there defined has a 22 fair market value implication, you know, then the life 23 insurance obligation would satisfy the purchase 24 obligation. 25 Q So this is something I want to address with</p>

10 (Pages 34 to 37)

EXAMINATION BY MR. DEVEREUX

<p style="text-align: right;">Page 58</p> <p>1 and which affected the expert report you prepared in 2 Plaintiff's Exhibit No. 12? 3 A Yes. 4 Q And what was that? What were those factors? 5 A That they all -- I think the only thing that 6 is relevant is that they agreed -- if they agreed to 7 sell and the company agreed to buy the shares for 8 \$3 million from the estate. 9 Q Okay. Let me direct your attention to page 10 4, paragraph 12 of your expert report. 11 A All right. 12 Q In this report you indicate that the 13 redemption of the shares creates a windfall for Thomas 14 Connelly. Is that accurate? 15 A Yeah. 16 Q Okay. And I'll ask it again. Did you 17 understand that the parties were funding the 18 obligation of the amended and restated stock purchase 19 agreement by the purchase of life insurance policies 20 that would be available to redeem the stock as 21 required -- 22 A No, those are -- 23 Q -- under the amended and restated stock 24 purchase agreement? 25 A No, those are two separate things.</p>	<p style="text-align: right;">Page 60</p> <p>1 that a willing buyer would be willing to pay 2 6.8 million, approximately, and then come in and 3 redeem Michael Connelly's shares for \$3 million? 4 A I believe so. It might have been 6.9. 5 Q Okay. My question to you, is that kind of a 6 distinction without a difference? Because isn't the 7 net price that you're paying for the company \$3.8 8 million? Because you're coming in, you're paying 6.8, 9 and you're immediately paying out the \$3 million 10 obligation? 11 A Yeah. I think the reason that I set up that 12 hypothetical like that is to mimic what really 13 happened. That there was, you know, the redemption of 14 shares that was paid out, so that there is not, you 15 know, there is not as much difference. And when a 16 third party comes in, if the shares haven't been 17 redeemed, if the company's obligations to redeem those 18 shares remains, and if the \$3 million is still, you 19 know, available and not paid out yet, then they're 20 purchasing the company and the \$3 million, and then 21 they are redeeming the shares for, you know, whatever 22 that's worth. 23 Q So don't we arrive at the valuation that 24 Anders calculated that -- 25 A No.</p>
<p style="text-align: right;">Page 59</p> <p>1 Q What do you mean by they're separate things? 2 A Well, the amount of the insurance proceeds 3 is what was bought on the insurance coverage. Whereas 4 the obligation is to purchase the shares of the estate 5 at their fair market value. Those two things don't 6 have to be tied at all. 7 Q All right. But my question -- my question 8 is: Is did you understand that the purchase of the 9 life insurance policies was the funding vehicle to 10 allow the company to comply with the terms of the 11 amended and restated stock purchase agreement? 12 A No. 13 Q No what? 14 A No, that's not my understanding. 15 Q What was your understanding then? 16 A My understanding is the company had an 17 obligation on the death of Michael or Thomas, but 18 Michael unfortunately is the one that passed away. 19 The company had an obligation to purchase his shares 20 at their fair market value. You know, the fact that 21 there was life insurance available to pay some of it 22 is, you know, nice, but I don't see the connection. 23 And it's not my understanding that there needs to be a 24 connection. 25 Q In one of your examples did you indicate</p>	<p style="text-align: right;">Page 61</p> <p>1 Q -- is contained in Plaintiff's Exhibit 5? 2 A No, because at that point it would only be 3 115 shares left. It wouldn't be the 500 shares. 4 Q But the point is, if you take 6.8 and you 5 came in and you paid off the 3 million, then you would 6 be at 3.8 million, right? 7 A Yeah. But why are you only paying the 8 3 million? 9 Q I don't know. You came up with this -- with 10 this -- what I consider to be, you know, this 11 convoluted explanation as to what a willing buyer 12 would do when, you know, the entire situation is such 13 that whoever buys it is going to have to satisfy the 14 obligation that Crown C had as a result of the amended 15 and restated purchase agreement. And would a buyer 16 not take that into consideration in arriving at the 17 price that willing buyer would pay for the company? 18 A Is there a particular place you want me to 19 look in the report? Would figure 3 be a good place? 20 It seems like that's the hypothetical that you're 21 calling convoluted. 22 Q I would just request that you answer the 23 question. 24 A If a third-party were purchasing the company 25 and the cash proceeds from the life insurance, they</p>

16 (Pages 58 to 61)

EXAMINATION BY MR. DEVEREUX

<p style="text-align: right;">Page 66</p> <p>1 or becomes incompetent or revokes or disputes the 2 validity or liability under, any guarantee of the 3 indebtedness evident by this note. I see that. 4 Q So my question is, did you understand that 5 when Michael Connelly died, that was a delineated item 6 of default in the promissory note that's contained in 7 Plaintiff's Exhibit 16? 8 A I see that language here, but I didn't -- it 9 wasn't part of my opinion or scope. 10 Q So did you give any credence to the fact 11 that when Michael Connelly died on October 1st, 2013, 12 that Crown C Supply was in default of its loan 13 covenants with Commerce Bank? 14 A No, because in accepting the Anders Minkler 15 valuation I've been told to accept everything, you 16 know, above the treatment of the obligation and the 17 insurance proceeds. And this included that. So I 18 didn't consider a valuation of the debt could be part 19 of my scope. 20 MR. DEVEREUX: Okay. I'm just about done. 21 Could we take about a ten-minute break? Let me just 22 get a little organized here and see if I have any 23 additional questions? I think it will be about 24 another five or ten minutes. Would that be okay with 25 everybody?</p>	<p style="text-align: right;">Page 68</p> <p>1 relates to life insurance proceeds that are received 2 by a company pursuant to a buy/sell agreement? 3 A I don't recall having any understanding. 4 And I didn't need to come up with an understanding 5 because my assignment was, you know, to opine on the 6 fair market value of the -- of Michael Connelly's 7 shares, and that's not a question where I need legal 8 precedent to consider it. You know, it's a question 9 of valuation. 10 Q But don't we as taxpayers and as Internal 11 Revenue Service, don't we rely on court cases to 12 provide guidance as to how we treat particular 13 transactions? 14 A I mean, let's take my baseball card example. 15 You don't need a court decision to figure out that 16 \$100 baseball card its worth \$100. So, I mean I don't 17 know what courts have to do with -- with, you know, 18 what my scope was. 19 Q Well, let's use your example of the baseball 20 card. And let's say that you do sell a baseball card 21 for \$100, and the internal revenue code provides that 22 when anybody sells a baseball card you're taxed at 23 95 percent of the sale price. Would that require the 24 seller of that baseball card to then pay \$95 into the 25 registry of the federal government as a result of that</p>
<p style="text-align: right;">Page 67</p> <p>1 MR. BRESNAHAN: Yes. 2 MR. DEVEREUX: All right. It's 12:34. 3 Let's come back about 12:45. Or in your case, the 4 east coast guys, 1:45. 5 (A break was held.) 6 7 MR. DEVEREUX: Back on. 8 Q (By Mr. Devereux) Mr. Cohen, did you perform 9 any analysis to determine the value of Crown C Supply 10 by comparing any other similarly situated business? 11 A I'm sorry, I was on mute. No. 12 Q Okay. And I think I asked you this, but I 13 want the record to be clear, did anybody during your 14 assignment that culminated in your expert report ever 15 inform you of the case of the estate of Blount versus 16 The Commissioner of Internal Revenue? 17 A Yeah, I thought we discussed that at the 18 beginning that I might have reviewed the case a year 19 ago, but it had no impact on my analysis and opinion. 20 Q Did you ignore the holding in Blount in 21 rendering your opinion? 22 A I didn't even consider the holding of Blount 23 in rendering my opinion. 24 Q Well, when you -- when you reviewed the 25 Blount case, what understanding did you gain as it</p>	<p style="text-align: right;">Page 69</p> <p>1 sale due to the fact that there was an internal 2 revenue code that required it? 3 A It would seem that way. 4 Q So, why -- why was it that you didn't follow 5 the case law that annunciated how insurance proceeds 6 are to be treated pursuant to a buy/sell agreement? 7 MR. BRESNAHAN: Objection. That's calling 8 for a legal conclusion. 9 Q (By Mr. Devereux) Subject to that, sir, you 10 may answer. 11 A Yeah, if the question is what's the fair 12 market value of the baseball card and you know, do an 13 analysis and it's \$100, that has nothing to do with 14 what the proceeds are used for. You know, my question 15 is what's the value of the company or what's the value 16 of the percentage share of the company? Then if there 17 is some legal precedent that has some impact -- you 18 know, it doesn't affect what a willing buyer and a 19 willing seller are going to exchange that for. That's 20 a market determination. Not a legal determination. 21 Q Is it not a legal determination when the 22 court declares that -- in Blount, the Ninth Circuit 23 approved deducting the insurance proceeds from the 24 value of the organization when they are offset by an 25 obligation to pay those proceeds to the estate in a</p>

18 (Pages 66 to 69)

Page 78

SIGNATURE PAGE

STATE OF _____)

COUNTY OF _____)

I, _____, do

hereby affirm that I have read the foregoing deposition and agree that said deposition is a true and correct representation of my testimony in this matter, with any changes I have made on the correction page.

EVAN K. COHEN

Subscribed to before me this _____ day
of _____, 2020.

NOTARY PUBLIC

My commission expires: _____

STYLE OF CASE: Thomas A. Connelly, in his Capacity as
Executor of the Estate of Michael P. Connelly, Sr.,
VS. The United States of America, Department of the
Treasury, Internal Revenue Service
TAKEN ON: November 25, 2020
REPORTER: Bo Kriegshauser, RPR, CCR, CSR-IL, CLVS

Page 79

CERTIFICATE

I, Bo Kriegshauser, a Registered Professional Reporter and duly Certified Court Reporter within and for the State of Missouri, do hereby certify that there came before me via REMOTE virtual hook-up,

EVAN K. COHEN,
was by me first duly sworn to testify to the truth and nothing but the truth of all knowledge touching and concerning the matters in controversy in this cause; that the witness was thereupon carefully examined under oath and said examination was reduced to writing by me; and that the signature of the witness was NOT waived by agreement of witness and all parties, and that this deposition is a true and correct record of the testimony given by the witness.

I further certify that I am neither attorney nor counsel for nor related nor employed by any of the parties to the action in which this deposition is taken; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

Bo Kriegshauser

21 (Pages 78 to 79)